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7 IN THE UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 RYANAIR DAC, an Irish company,) CASE NO:
11 Plaintiff)
12 v.) COMPLAINT FOR:
13 EXPEDIA INC., a Washington) VIOLATION OF COMPUTER FRAUD
14 corporation,) AND ABUSE ACT (18 U.S.C. § 1030 *et*
15 Defendant.) seq.)
16) JURY DEMAND
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Plaintiff Ryanair DAC (“Ryanair” or “Plaintiff”), by and through its undersigned counsel, for its Complaint against Defendant Expedia Inc. (“Expedia” or “Defendant”) alleges as follows:

PARTIES

1. Plaintiff Ryanair is a company duly organized under the laws of Ireland having its principal place of business at Ryanair Dublin Office, Airside Business Park, Swords, County of Dublin, Ireland.

2. Ryanair prides itself on providing to its customers low-fare airline travel without sacrificing quality and customer service. Through its website at www.ryanair.com (the “Ryanair Website”), Ryanair offers its customers low-fare flights, along with providing flight advertisement, search, information, reservation, and purchase services for Ryanair flights and ancillary services.

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3. On information and belief, Defendant Expedia Inc. is a Washington corporation having its principal place of business at 333 108th Avenue NE, Bellevue, Washington 98004.

4. Expedia operates an online travel company that, among other services, allows its customers to make and book travel arrangements on its websites. Expedia's websites offer a broad selection of airline tickets, hotel reservations, and many other travel services throughout the world.

NATURE OF ACTION

5. This action arises under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 (“CFAA”).

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this claim pursuant to 28 U.S.C. § 1331 because this action arises under federal law, namely, 18 U.S.C. § 1030.

7. This Court has personal jurisdiction over Expedia because it operates its business in this State and District and, on information and belief, has committed one or more acts alleged in this Complaint within this State and District. Furthermore, Washington state is regarded as Expedia's home.

8. Venue is proper in this District under 28 U.S.C. § 1391(b) because Expedia resides in this judicial district, is subject to personal jurisdiction in this District, and because, on information and belief, a substantial part of the actions giving rise to the claim occurred in this District.

FACTS AND BACKGROUND

A. Ryanair and the Ryanair Website

9. Ryanair operates internationally as a low-fare airline in part through the Ryanair Website. The Ryanair Website contains flight advertisements, reservation, and purchase services for Ryanair flights, as well as additional services such as accommodation, reservation, car hire, and insurance services.

10. Ryanair has built considerable goodwill since its creation in 1985 as Europe's first low-fare airline. Since that time, Ryanair has become a leading airline, carrying more than 100

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1 million passengers per year on approximately 1,800 daily flights across 31 countries. Ryanair's
2 sales, marketing, and business model is based on offering low fares to its customers. The Ryanair
3 Website is at the center of that model.

4 11. Ryanair's business is perpetuated in significant part by the efficacy and performance
5 of the Ryanair Website. This includes delivering prompt, reliable, and efficient results to consumers.

6 12. Through the Ryanair Website, Ryanair provides fare, route, and schedule information
7 to its customers and potential customers. Ryanair provides this information in an interactive format.

8 13. Over 99% of Ryanair bookings are made through the Ryanair Website.

9 14. Ryanair has invested substantial time, effort, and money in developing and
10 maintaining the Ryanair Website and its related databases and systems, along with the information
11 contained in it. Ryanair relies on the Ryanair Website to facilitate and process transactions and to
12 maintain and earn the business and goodwill of its customers.

13 15. Given its importance, Ryanair has also invested considerable resources in the design,
14 organization, operation, and maintenance of the Ryanair Website to ensure that it operates in an
15 efficient and user-friendly manner by selecting and verifying the data presented on the Ryanair
16 Website.

17 16. Ryanair maintains the exclusive online distribution rights to sell Ryanair flights to the
18 general public in order to ensure that Ryanair flights are sold to consumers at the lowest price,
19 thereby preserving Ryanair's reputation.

20 **B. The Ryanair Terms of Use**

21 17. The Ryanair Website Terms of Use ("Ryanair TOU") explain that by accessing the
22 Ryanair Website, users agree to be legally bound by and act in accordance with the Ryanair TOU.
23 See, Exhibit A, ¶ 1, attached hereto.

24 18. Ryanair is the exclusive online distribution channel for its airline flights. Specifically,
25 the Ryanair TOU states:

1 This website is the only website authorised to sell Ryanair flights,
2 whether on their own or as part of a package. Price comparison websites may
3 apply to enter into a written Licence Agreement with Ryanair, which permits such
4 websites to access Ryanair's price, flight and timetable information for the sole
purpose of price comparison.

5 *See, Exhibit A, ¶ 2, attached hereto.*

6 19. Users of the Ryanair Website are not permitted to use the Ryanair Website other than
7 for private, non-commercial purposes. Specifically, the Ryanair TOU states:

8 You are not permitted to use this website (including the mobile app and
9 any webpage and/or data that passes through the web domain at
10 ryanair.com) its underlying computer programs (including application
11 programming interfaces ("APIs")), domain names, Uniform Resource
12 Locators ("URLs"), databases, functions or its content other than for
13 private, non-commercial purposes. Use of any automated system or
14 software, whether operated by a third party or otherwise, to extract any
15 data from this website for commercial purposes ("screen scraping") is
16 prohibited. Ryanair reserves its right to take such action as it considers
17 necessary, including issuing legal proceedings without further notice, in
18 relation to any unauthorised use of this website.

19 *See, Exhibit A, ¶ 3, attached hereto.*

20 20. Ryanair does not permit scraping of the Ryanair Website, its content, and/or its
21 underlying databases.

22 21. Any scraping of the Ryanair Website, its content, and/or its underlying databases is
23 unauthorized.

24 22. The Ryanair TOU explicitly forbids screen scraping. For example, the TOU states:

25 You are not permitted to use this website (including the mobile app and
26 any webpage and/or data that passes through the web domain at
ryanair.com) its underlying computer programs (including application
programming interfaces ("APIs")), domain names, Uniform Resource
Locators ("URLs"), databases, function, or its content other for private,
non-commercial purposes. Use of any automated system or software,
whether operated by a third party or otherwise, to extract any data from
this website for commercial purposes ("screen scraping") is prohibited.
Ryanair reserves its right to take such action as it considers necessary,

including issuing legal proceedings without further notice, in relation to any unauthorised use of this website.

See Exhibit A, ¶ 3, attached hereto.

23. Paragraph four of the Ryanair TOU notifies the Ryanair Website user of Ryanair's intellectual property and other user restrictions:

All information, data, underlying computer programs (including APIs), domain names, URLs, databases, and materials presented on this website, including names, logos, flight schedules, prices, etc., as well as the colour scheme and the layout of the website, are subject to copyright, trade mark rights, database rights and/or other intellectual property rights. You may use such content only as strictly required for permitted personal, non-commercial purposes. Any other use and/or reproduction of such content, without the prior written consent of Ryanair, is prohibited and will constitute a breach of these Terms of Use and may infringe Ryanair's IP rights.

See Exhibit A, ¶ 4, attached hereto.

24. In order to conduct a search on the Ryanair Website, the user is required to input search parameters and click a button entitled “*Let’s go!*” A user must agree to the Ryanair TOU prior to clicking on the button entitled “*Let’s go!*”

25. There is a box to check under the “Let’s go!” button on the Ryanair Website. Next to the checkbox are the words: “*By clicking Let’s Go I agree to Website Terms of Use.*”

26. The statement “*By clicking Let’s Go I agree to Website Terms of Use,*” as described above in paragraph 25, contains an emphasized hyperlink in bold font linking to the Ryanair TOU.

27. A representation of the Ryanair Website as described above in paragraphs 24 to 26 is shown below:

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28. Users of the Ryanair Website, including Expedia and/or its agents, are put on notice of and subject to the Ryanair TOU.

29. Additionally, bookings through the Ryanair Website are completed through a feature on the Ryanair Website called “myRyanair.” Access to myRyanair requires the entry of a user name and password.

30. In order to complete a booking on the Ryanair Website, Expedia and/or its agent must click a box on the Ryanair Website confirming that Expedia and/or its agent agree to the Ryanair TOU.

31. At all material times, admission to and use of Ryanair’s Website have been subject to the Ryanair TOU or terms of use materially similar.

32. The Ryanair TOU is available for inspection on the Ryanair Website via hyperlinks that are prominently displayed in multiple locations on the Ryanair Website, including near the search query field.

C. Expedia’s Unauthorized Activities and the Resulting Harm

33. Expedia operates as an online travel agent and booking service for airline flights, hotel reservations, car rentals, and ancillary services.

34. Expedia offers for sale and sells Ryanair flights individually and as part of a package, *e.g.* flights and hotels, through the Expedia website.

1 35. On its websites, Expedia offers Ryanair flights and packages without Ryanair's
2 permission and in violation of Ryanair's TOU.

3 36. On information and belief, Expedia has used and/or procured, and continues to use
4 and/or procure, information from an automated system or software that enables it to enter into and
5 use the Ryanair Website, its content, and/or underlying databases for the purposes of searching and
6 booking Ryanair flights that are ultimately sold by Expedia to customers using the Expedia website.

7 37. A customer who books and purchases a Ryanair flight through the Expedia website
8 does so within the confines of the Expedia website. The customer is not transferred to the Ryanair
9 Website.

10 38. On information and belief, this automated system or software described above in
11 paragraph 36 operates on a daily and near-continuous basis in order to procure flight information
12 from the Ryanair Website. This continues to the present day.

13 39. Expedia enters and uses the Ryanair Website by engaging in and/or directing,
14 controlling, or procuring an activity commonly referred to as "screen scraping," "crawling," or the
15 use of a "robot" or "spider."

16 40. The automated software or system described above in paragraphs 36 and 38 enables
17 Expedia and/or its agents to enter into and use, or cause to be entered into and used, the Ryanair
18 Website and its content by mimicking an actual customer.

19 41. Upon entering into and using the Ryanair Website or its content, Expedia and/or its
20 agents conduct or cause a search for flight information on behalf of its own customers.

21 42. On information and belief, Expedia uses the information it gleans from its screen
22 scraping activities for use in conjunction with offers to its customers.

23 43. On information and belief, Expedia on occasion charges its customers who purchased
24 Ryanair tickets a fee beyond the cost the true cost of the Ryanair flight.

25 44. On information and belief, as a consequence of the fee described above in paragraph
26 43, Expedia fails to inform consumers of the actual price of the Ryanair flight they are booking.

1 45. On information and belief, Expedia similarly fails to inform its customers that an
2 additional fee is imposed by Expedia and that said fee is unconnected with Ryanair and paid to
3 Expedia or its agents.

4 46. The imposition of such additional fees as described above in paragraphs 43 to 45
5 causes damage to Ryanair's goodwill and reputation.

6 47. Expedia occasionally also misrepresents the price of a Ryanair flight on the Expedia
7 website in a manner outside of the additional fee Expedia includes, as discussed in paragraphs 43
8 through 45.

9 48. When a Ryanair flight is purchased as part of a flight and hotel package on the
10 Expedia website, Expedia states that the ticket is non-refundable and non-transferrable. This is
11 contrary to Ryanair's General Terms and Conditions of Travel, which do in certain circumstances
12 permit refunds and name changes. This misinformation damages Ryanair's reputation.

13 49. Additionally, when a customer books and purchases a Ryanair flight through the
14 Expedia website, the customer does so within the confines of the Expedia website and the customer
15 is not transferred to the Ryanair Website.

16 50. Expedia's refusal or failure to transfer the customers to the Ryanair Website for the
17 purpose of booking a flight with Ryanair interferes with Ryanair's commercial interests and
18 damages Ryanair.

19 51. Expedia's ability to sell Ryanair services through the Expedia website is dependent
20 on Expedia's or its agents' unauthorized and illegal scraping of the Ryanair Website.

21 52. Expedia through its or its agents' screen scraping of the Ryanair Website deprives
22 Ryanair of the opportunity to maximize its revenues from the Ryanair Website.

23 53. Ryanair also suffers a loss when Expedia's activities cause Ryanair's potential
24 customers to choose not to travel with Ryanair after viewing the inflated cost shown on the Expedia
25 website.

1 54. Furthermore, Expedia's and/or its agents' screen scraping of the Ryanair Website
2 increases the quantities of queries on the Ryanair Website. These automated queries have the ability
3 to overwhelm the systems of the Ryanair Website, which impairs the Ryanair Website's availability
4 and/or usability for the intended users. This causes material harm to Ryanair, its customers, and
5 Ryanair's reputation.

6 55. Because of the data being scraped from the Ryanair Website by Expedia or its agent,
7 response time on the Ryanair Website can deteriorate, leading to error rates, and unacceptably slow
8 response rates.

9 56. Ryanair has spent considerable resources to find, diagnose, and block access to the
10 Ryanair Website by Expedia and/or its agents. Those resources have included and continue to
11 include the diversion of employees from their usual duties, along with costs paid to third parties.

12 57. Expedia's and/or its agents' conduct discussed above in paragraphs 38 through 49 is
13 not authorized by Ryanair.

14 58. Expedia's and/or its agent's conduct discussed above in paragraphs 38 through 49 is
15 subject to and breaches the terms of the Ryanair TOU.

16 59. On September 28, 2017, counsel for Ryanair sent Expedia a cease and desist letter,
17 demanding that Expedia immediately stop its practice of screen scraping. *See Exhibit B*, attached
18 hereto ("Cease and Desist Letter").

19 60. The Cease and Desist Letter made clear to Expedia that Ryanair does not authorize
20 Expedia's and/or its agents' practice of screen scraping.

21 61. The practice of screen scraping is in breach of the Ryanair TOU.

22 62. Expedia is aware of the Ryanair TOU.

23 63. Even if Expedia incorrectly believed it had authorization for Expedia or its agent to
24 screen scrape the Ryanair Website, Ryanair has made it explicit that any authorization has been
25 revoked.

1 64. In the Cease and Desist Letter, Ryanair wrote: “Ryanair explicitly and unequivocally
 2 states that Expedia has no authorization to access Ryanair’s website or its content for any reason. To
 3 the extent Expedia ever believed it had authorization to access Ryanair’s website, Ryanair explicitly
 4 revokes such authorization.” *See*, Exhibit B, p. 2, attached hereto.

5 65. Ryanair explicitly revoked any and all authorization for parties that Expedia may
 6 enlist to aid in accessing the Ryanair Website or its content.

7 66. The Cease and Desist Letter stated: “In addition to Expedia, Ryanair explicitly
 8 revokes any and all authorization for those parties that Expedia may enlist to aid in accessing
 9 Ryanair’s website or its content, including but not limited to Expedia’s agents, employees, affiliates,
 10 and/or anyone acting on Expedia’s behalf. This revocation includes third-party vendors or third-
 11 party scraping providers that Expedia may employ or hire or from which Expedia may purchase a
 12 service. Technological gamesmanship or the enlisting of a third party to aid Expedia in gaining such
 13 access does not excuse Expedia of liability under CFAA. To the extent Expedia is currently utilizing
 14 a third party to gain unauthorized access to Ryanair’s website or its content, we demand that you
 15 cease and desist such activity and provide to Ryanair the third party’s business information so that
 16 Ryanair can provide that company explicit notice of its continued violations of the CFAA.” *See*,
 17 Exhibit B, p. 2, attached hereto.

18 67. To date, Expedia has neither responded to the Cease and Desist Letter nor ceased its
 19 unauthorized activities described herein.

20 68. Expedia itself, or through its agents, continues to knowingly and intentionally screen
 21 scrape the Ryanair Website to its own economic and reputational advantage and to the disadvantage
 22 of Ryanair.

23 69. Expedia is not now, nor has it ever been, authorized by Plaintiff to procure or use the
 24 information or content stored on the Ryanair Website and/or its underlying databases and systems.

25 70. Furthermore, Expedia is aware that screen scraping negatively affects Ryanair and the
 26 Ryanair Website.

71. On September 15, 2011, Expedia filed a lawsuit in this District alleging that individuals “deployed scraping software in the Expedia.com website.” *See Expedia Inc. v. John Does 1-10*, No. 2:11-cv-1542 (the “Expedia Scraping Lawsuit”).

72. In the Expedia Scraping Lawsuit, Expedia alleged that the screen scraping “impaired the site’s availability and/or usability for intended users, causing material harm to Expedia, its customers, and its reputation.”

73. In the Expedia Scraping Lawsuit, Expedia alleged that “Defendants’ unauthorized and illegal use of the Expedia.com website impaired the servers’ condition and value and deprived Expedia their use for a substantial time.”

74. In the Expedia Scraping Lawsuit, Expedia alleged that the defendants' use of a scraper program on Expedia's protected computers "caused damage to Expedia's protected computers in violation of [the CFAA]."

75. Expedia's unauthorized and illegal use of the Ryanair Website has impaired the Ryanair Website's value, injured Ryanair, and continues to injure Ryanair.

COUNT I

VIOLATION OF COMPUTER FRAUD & ABUSE ACT UNDER 18 U.S.C. § 1030 et seq.

76. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 75, above, as if set forth in their entirety herein.

77. Plaintiff brings this action under 18 U.S.C. § 1030(g) allowing any injured person to maintain a civil action against the violator of 18 U.S.C. § 1030.

78. Expedia has violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(2)(C), by intentionally accessing a computer used for interstate commerce or communication, without authorization or by exceeding authorized access to such a computer, and by obtaining information from such a protected computer.

79. Expedia has violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(4), by knowingly, and with intent to defraud Ryanair, accessing a protected computer, without

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authorization or by exceeding authorized access to such a computer, and by means of such conduct furthered the intended fraud and obtained one or more things of value.

80. On information and belief, Expedia has violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(5)(A), by knowingly causing the transmission of a program, information, code, or command and as a result intentionally causing damage without authorization to a protected computer owned by Ryanair.

81. Expedia has violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(5)(B) and (C) by intentionally accessing a protected computer without authorization, causing damage to Ryanair, recklessly or without due regard for their actions.

82. The computer system or systems that Expedia accessed as described above constitute a “protected computer” within the meaning of 18 U.S.C. § 1030(e)(2). Ryanair has suffered damage and loss by reason of these violations, including, without limitation, harm to Ryanair’s website, data and/or underlying databases, and other losses and damage in an amount well over \$5,000 aggregated over a one-year period.

83. Pursuant to 18 U.S.C. § 1030(g), Plaintiff is entitled to recover compensatory damages and preliminary and injunctive relief prohibiting Expedia from further violations of the Computer Fraud and Abuse Act and to prohibit Plaintiffs from using the data they obtained by scraping Ryanair's website.

PRAYER FOR RELIEF

WHEREFORE Plaintiff demands judgment against Expedia as follows:

A. For judgment in favor of Plaintiff and against Expedia, on Count I of Plaintiff's Complaint;

B. That Expedia's actions constitute a violation of the CFAA, under Federal law;

C. That Expedia, and all of its agents, servants, employees, representatives, and all others in active concert or participation with them, either directly or indirectly, be preliminary and permanently enjoined from:

- i. Using computer programs, including those referred to as spiders or robots, to scrape, mine or otherwise extract data or conduct image stripping of the Ryanair Website and/or underlying databases and the content contained therein;
- ii. using or disclosing any data or image contained from the Ryanair Website; and
- iii. injuring Plaintiff's business reputation and the goodwill associated with Ryanair.

That Expedia be required to immediately cease its practice of screen scraping; For damages in favor of Plaintiff and against Expedia, sufficient to compensate the damages sustained as a result of Expedia's actions as alleged herein including, but all profits received by Expedia from sales and revenues of any kind made as a result of

That Expedia be ordered to pay Plaintiff interest on all monetary awards as allowed For such other and further relief as the Court deems just and proper.

JURY DEMAND

In accordance with Rule 38(b) of the Federal Rules of Civil Procedure, Ryanair DAC demands a trial by jury of all issues triable by jury.

Dated: November 29, 2017

Respectfully Submitted,

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